

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 758**

Introduced by Chambers, 11

Read first time January 19, 2005

Committee: Judiciary

A BILL

1 FOR AN ACT relating to notaries public; to amend section 64-113,  
2 Revised Statutes Supplement, 2004; to eliminate the  
3 authority of notaries public to summon and punish  
4 witnesses; to harmonize provisions; to repeal the  
5 original section; and to outright repeal section 64-108,  
6 Reissue Revised Statutes of Nebraska.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 64-113, Revised Statutes Supplement,  
2   2004, is amended to read:

3           64-113. (1) Whenever charges of malfeasance in office  
4   are preferred to the Secretary of State against any notary public  
5   in this state, or whenever the Secretary of State has reasonable  
6   cause to believe any notary public in this state is guilty of acts  
7   of malfeasance in office, the Secretary of State may appoint any  
8   disinterested person, not related by consanguinity to either the  
9   notary public or person preferring the charges, and authorized by  
10   law to take testimony of witnesses by deposition, to notify such  
11   notary public to appear before him or her on a day and at an hour  
12   certain, after at least ten days from the day of service of such  
13   notice. Such appointee may ~~summon witnesses, in the manner~~  
14   ~~provided by section 64-108, to appear at the time specified in the~~  
15   ~~notice, and he or she may take the testimony of such witnesses in~~  
16   ~~writing, in the same manner as is by law provided for taking~~  
17   ~~depositions, and certify the same to the Secretary of State (a)~~  
18   issue summons and command the presence before him or her of  
19   witnesses to appear at the time specified in the notice, (b) take  
20   the testimony of such witnesses in writing, in the same manner as  
21   is by law provided for taking depositions, and certify the same to  
22   the Secretary of State, and (c) punish witnesses for neglect or  
23   refusal to obey such summons, or for refusal to testify when  
24   present, by commitment to the jail of the county for contempt. All  
25   sheriffs and constables in this state are required to serve and  
26   return all process issued by such appointee in the taking of  
27   testimony of witnesses by commission or deposition. The notary  
28   public may appear, at such time and place, and cross-examine

1 witnesses and produce witnesses in his or her behalf, which  
2 cross-examination and testimony shall be likewise certified to the  
3 Secretary of State. Upon the receipt of such examination, duly  
4 certified in the manner prescribed for taking depositions to be  
5 used in suits in the district courts of this state, the Secretary  
6 of State shall examine the same, and if therefrom he or she is  
7 satisfied that the charges are substantially proved, he or she may  
8 remove the person charged from the office of notary public or  
9 temporarily revoke such person's commission. Within fifteen days  
10 after such removal or revocation and notice thereof, such notary  
11 public shall deposit, with the Secretary of State, the commission  
12 as notary public and notarial seal. The commission shall be  
13 canceled or temporarily revoked by the Secretary of State. A person  
14 so removed from office shall be forever disqualified from holding  
15 the office of notary public. A person whose commission is  
16 temporarily revoked shall be returned his or her commission and  
17 seal upon completion of the revocation period and passing the  
18 examination described in section 64-101.01. The fees for taking  
19 such testimony shall be paid by the state at the same rate as fees  
20 for taking depositions by notaries public. The failure of the  
21 notary public to deposit his or her commission and seal with the  
22 Secretary of State as required by this section shall subject him or  
23 her to a penalty of one thousand dollars, to be recovered in the  
24 name of the state.

25 (2) For purposes of this section, malfeasance in office  
26 means, while serving as a notary public, (a) failure to follow the  
27 requirements and procedures for notarial acts provided for in  
28 Chapter 64, articles 1 and 2, or (b) being convicted of a felony or

1 other crime involving fraud or dishonesty.

2           Sec. 2.     Original section 64-113, Revised Statutes  
3 Supplement, 2004, is repealed.

4           Sec. 3.     The following section is outright repealed:  
5 Section 64-108, Reissue Revised Statutes of Nebraska.